

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
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PLR-T-103154-15

Date:
June 17, 2015

LEGEND

Taxpayer A =
Plan X =
Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =
Company M =

Dear :

This letter responds to your request dated November 18, 2014, as supplemented by correspondence dated February 19, 2015 and June 3, 2015, submitted on your behalf by your authorized representative regarding the church plan status of Plan X within the meaning of section 414(e) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalty of perjury on your behalf:

Taxpayer A is a nonprofit corporation governed by a Board of Elders and administered by a senior pastor selected by the Board. Under the by-laws of Taxpayer A, all members of the Board of Elders, except the senior pastor, must have attended

Taxpayer A regularly for at least one year before being selected to the Board. In a letter dated Date 1, the Internal Revenue Service (IRS) determined that Taxpayer A is (1) exempt from taxation under section 501(a) as an organization described in section 501(c)(3) and (2) a church or a convention or association of churches under section 170(b)(1)(A)(i).

Taxpayer A maintains several ministries, including a worship ministry and a school ministry. As represented by your authorized representative, the purpose of each ministry is substantially religious, consistent with Taxpayer A's purposes, and closely identified with Taxpayer A. Each ministry is overseen by the senior pastor of Taxpayer A.

Taxpayer A adopted Plan X on Date 2 effective on Date 3, and it has been restated and amended several times since then. Taxpayer A is the only employer maintaining Plan X and is the plan administrator of Plan X pursuant to section 1.41 of the plan document. The chief financial officer and the director of human resources of Taxpayer A administer Plan X subject to review by the Taxpayer A Board of Elders.

Plan X, an adopted prototype plan, is a qualified plan under section 401(a) and its related trust is exempt under section 501(a). Company M, the prototype plan sponsor, received an opinion letter from the IRS, dated Date 4, stating that the prototype plan was acceptable under section 401 for use by employers for the benefit of their employees.

Plan X includes various plan provisions that are required by Title I of the Employee Retirement Income Security Act of 1974 (ERISA) and by section 401(a) of the Code, but that are not applicable to a church plan unless the church plan sponsor chooses to have those provisions apply. Taxpayer A has operated Plan X in accordance with all of the terms of Plan X since its adoption and each year has filed a Form 5500, Annual Return/Report of Employee Benefit Plan, for Plan X. Taxpayer A has never filed a statement, either as an attachment to a Form 5500 or as an attachment to a determination letter request, electing to be treated as a non-church plan under section 410(d).

All of the employees of Taxpayer A, including those employed in the Taxpayer A ministries, are eligible to participate in Plan X after satisfying its minimum age and service requirements. All of the employees who participate in Plan X are employees of Taxpayer A. As represented by your authorized representative, no employees of for-

profit entities are eligible to participate in Plan X, and no participants in Plan X are considered employed in connection with one or more unrelated trades or businesses within the meaning of section 513.

In accordance with Revenue Procedure 2011-44, 2011-39 I.R.B. 446, a Notice to Interested Persons with reference to Plan X was provided on Date 5. This notice explained to participants of Plan X the consequences of church plan status.

Based on the foregoing, you request a ruling that:

- (1) Plan X qualifies as a church plan under section 414(e) of the Code.
- (2) The adoption by Taxpayer A of a prototype plan that satisfies the requirements applicable to non-church plans under the Code and Title I of ERISA and the filing of Forms 5500 do not constitute an election by Taxpayer A under section 410(d) of the Code.

Section 414(e)(1) generally defines a church plan as a plan established and maintained for its employees (or their beneficiaries) by a church or a convention or association of churches which is exempt from taxation under section 501 of the Code.

Section 414(e)(2) provides, in part, that the term “church plan” does not include a plan that is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or if less than substantially all of the individuals included in the plan are individuals described in section 414(e)(1) or 414(e)(3)(B) (or their beneficiaries).

Revenue Procedure 2011-44, 2011-39 I.R.B. 446, supplements the procedures for requesting a letter ruling under section 414(e) relating to church plans. The revenue procedure: (1) requires that plan participants and other interested persons receive a notice in connection with a letter ruling request under section 414(e) for a qualified plan; (2) requires that a copy of the notice be submitted to the .IRS as part of the ruling request; and (3) provides procedures for the IRS to receive and consider comments relating to the ruling request from interested persons.

With respect to your first ruling request, the IRS has previously determined that Taxpayer A is exempt from taxation under section 501(a) as an organization described

in section 501(c)(3) and is a church or a convention or association of churches under section 170(b)(1)(A)(i). Further, all of the participants in Plan X are employees of Taxpayer A and none are employed in connection with one or more unrelated trades or businesses. Accordingly, based on the specific facts of this case and representations made by Taxpayer A, we conclude that Plan X is a church plan within the meaning of section 414(e).

With respect to your second ruling request, section 410(d) allows a church or a convention or association of churches which maintains any church plan to make an irrevocable election that certain provisions of the Code and Title I of ERISA shall apply to the plan as if it were not a church plan. Section 1.410(d)-1 of the Income Tax Regulations provides that the plan administrator of the church plan may make the election by attaching an affirmative statement to either the plan's Form 5500 or to Form 5300, Application for Determination for Employee Benefit Plan. Section 1.410(d)-1 does not provide for an alternative form of election. Accordingly, we conclude that the adoption by Taxpayer A of a prototype plan that satisfies the requirements applicable to non-church plans under the Code and Title I of ERISA and the filing of Forms 5500 do not constitute an election by Taxpayer A under section 410(d).

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that this ruling may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Joyce Kahn
Acting Branch Chief, Qualified Plans Branch 4
(Employee Benefits)
(Tax Exempt & Government Entities)

cc: